IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC.

Plaintiff,

v.

CEMEX PUERTO RICO; CANOPY ECOTERRA CORP.; XYZ INSURANCE COMPANIES.

Defendants.

CIVIL NO.: 07- 1658 (JAF)

BREACH OF CONTRACT; COLLECTION OF MONIES; and DAMAGES.

JURY TRIAL DEMANDED

RECEIVED & FILED
2007 JUL 23

VERIFIED COMPLAINT

TO THE HONORABLE COURT:

NOW APPEARS Plaintiff **AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC,** and through the undersigned attorneys, respectfully **STATES, ALLEGES** and **DEMANDS JUDGMENT** as follows:

JURISDICTION AND VENUE

1. Jurisdiction in this case arises under 28 U.S.C. § 1332 (diversity jurisdiction).

2. Diversity jurisdiction is established as Plaintiff American Waste Management and Recycling,

LLC, is a Delaware corporation with its principal place of business in New York.

3. Defendant CEMEX Puerto Rico is domiciled, incorporated and/or has a principal place of business in Puerto Rico or a state other than New York.

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4. Defendant Canopy Ecoterra Corp. is a domestic for-profit corporation which has its principal place of business in Puerto Rico.

5. The matter in controversy exceeds the sum of Seventy Five Thousand Dollars ($75,000), exclusive of interest and costs, vesting jurisdiction in this Honorable Court pursuant to 28 U.S.C. § 1332.

6. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. § 1391 since the events or omissions giving rise to this claim occurred in this district.

THE PARTIES

7. Plaintiff AMERICAN WASTE MANAGEMENT & RECYCLING, LLC. (hereinafter, "AWMR"), is a corporation organized under the laws of Delaware, with its principal place of business in New York, and is in the business of recycling metal and scrap internationally.

8. Defendant CANOPY ECOTERRA (hereinafter, "Agent"), is a company organized and with its principal place of business in Puerto Rico or a state other than New York.

9. Canopy's President is Ignacio Barsotelli (hereinafter, "Mr. Barsotelli" or "Agent")

10. Defendant CEMEX Puerto Rico (hereinafter, "CEMEX"), is a company organized and with its principal place of business in Puerto Rico or a state other than New York.

11. Defendants XYZ INSURANCE COMPANIES are insurance companies presently unknown who are believed to provide the named defendants with liability insurance during the applicable time period.

GENERAL ALLEGATIONS

12. The allegations contained in paragraphs 1 through 11 of this complaint are incorporated herein by reference as if again fully set forth.

13. On or about November of 2006, Mr. Barsottelli presented his primary credentials to AWMR as the founder and Director of "Yo Limpio Puerto Rico, Inc.", a non-profit environmental organization, for AWMR to enter into a Purchase Contract with Ecoterra, his for-profit organization to purchase scrap metals "as is, where is" from the harvesting and dismantling of sections of the CEMEX plant in Ponce, Puerto Rico.

14. The agent produced a signed contract with CEMEX and was told that this was a concession to him by CEMEX and that he was acting as a sales agent.

15. On March 29, 2007, AWMR and Agent entered into a "Purchase Contract for the Purchase of Scrap Metal, Alloys, and Other Items" (hereinafter, "Purchase Contract") for the purchase of scrap metal including ferrous and non-ferrous metals and all alloys resulting from the harvesting and dismantling of the tanks and structures, and all motors, engines, and wiring from the dismantled and to-be dismantled structures located at the premises of the CEMEX plaint in Ponce, Puerto Rico. *See Exhibit 1.*

16. The Purchase Contract (hereinafter, "the contract") between AWMR and Agent incorporated the terms and conditions of the contract between Agent and CEMEX, which included a Scope of Work and Work Plan. *See Exhibit 2.*

17. Through this Purchase Contract, AWMR acquired the right to dismantle the structure, purchase, and remove the materials from the premises in accordance to the contract between CEMEX and Agent.

18. The Purchase Contract provided that the materials purchased by AWMR were to be sold in "as is, where is" condition, with no guarantee whatsoever that their condition was appropriate for AWMR's intended purposes. *See Exhibit 1.*

19. The contract further provided that unless terminated by either party in accordance with the terms and provisions stated therein, the initial term for the contract would be a period of eight (8) months or the completion of dismantling and extraction of the quantity of goods mentioned on paragraph ten (10) of this complaint, which ever came first, beginning the date the contract was executed. *Id.*

20. It was established in the contract that at the time AWMR took possession of, and removed the goods from the place of transfer at the premises, title, risk of loss, and all other incidents of ownership to the goods would be transferred from Agent/CEMEX and vested in AWMR. *Id.*

21. It was further specified therein that the contract could be terminated by AWMR or Agent upon delivery of a written Notice to Terminate the contract as of the date specified in such notice of termination, upon the occurrence of certain circumstances, including criminal acts, among others. *Id.*

22. The contract provided that in the event of a breach of contract, the party responsible for such breach would be provided a thirty (30) day cure period from the date of Notice to Terminate to remedy the stated breach. *Id.*

23. It was further stated in the contract that any hazardous material found by AWMR during dismantling and scrapping process on the premises as per the contract could be disposed

at Agent's request and expense, including oils in motors, and any asbestos present at the site. *Id.*

24. AWMR submitted directly to CEMEX management a work plan to dismantle, harvest and remove the scrap metal, which was accepted by CEMEX management.

25. During the meeting to discuss the work plan, AWMR notified the CEMEX Manager of the details of the Purchase Contract in order to confirm that CEMEX was in agreement, so that AWMR could begin mobilization and establish a working protocol with CEMEX.

26. The protocol consisted of:

a. Establishing office trailers at the premises of CEMEX;

b. Establishing an area for storage containers;

c. Establishing an area for containers to store light equipment;

d. Designating an area for heavy equipment;

e. Establishing personnel safety and security briefings;

f. Establishing the procedures for incoming and outgoing international shipping containers for storing and transportation of scrap out of CEMEX site;

g. Establishing a protocol on how and where to weigh the containers so CEMEX and the Agent could be paid as part of the Purchase Contract.

27. Upon approval of the work plan protocol by CEMEX, AWMR brought its crew for safety training by CEMEX personnel at the request of CEMEX; CEMEX badges and I.D.'s were issued to all AWMR personnel and all AWMR crew and names were registered with CEMEX security.

28. As a result thereof, AWMR began mobilizing its office trailers, moving equipment into the site, hiring local personnel, and leasing and bringing into the site local heavy machinery.

29. AWMR engineers and crew met with CEMEX's engineers and crew on a day to day basis and worked hand in hand on the project, in planning and execution of the work plan approved by CEMEX. *See Exhibit 15.*

30. On more than one occasion, CEMEX informed its employees that AWMR was the company that was dismantling and purchasing the metals from CEMEX in order to assure complete cooperation with AWMR personnel , so CEMEX was on actual notice regarding AWMR's role in the dismantling and purchase and sale process.

31. Upon the request of Agent, AWMR did not disclose to CEMEX the total purchase price of the Purchase Contract, as part of the payment was for the agent.

32. On more than one occasion, CEMEX requested AWMR's personnel's expertise and participation in cutting metal in their new line, which was not part of the Purchase Contract between AWMR and Agent.

33. CEMEX promised AWMR that it could take the metal derived from this cutting, an agreement CEMEX which later reneged upon.

34. At the request of Agent and CEMEX, a protocol was established for AWMR to bring into CEMEX property its shipping containers and trucks to store and transport the scrap purchased and/or dismantled by AWMR.

35. CEMEX also requested AWMR to work in certain areas as per CEMEX's agenda.

36. This required AWMR to relocate personnel from the optimal work area to the areas requested by CEMEX.

37. Furthermore, as the work plan and flow was disrupted, AWMR had to bring in additional personnel and smaller equipment to work in these areas.

38. AWMR initially agreed to CEMEX's requests, but as a result thereof, AWMR began suffering financial losses and objected to CEMEX, who then promised to offset the losses by lowering their share of the compensation in the Purchase Contract signed by AWMR with their Agent.

39. Also, Mr. Juan Emmanuelli of CEMEX management promised AWMR that a new revised contract would be forthcoming with a lower purchase price through their Agent.

40. This situation slowed down work and required additional man hours and equipment, but AWMR continued working because of Mr. Emmanuelli's promise of a lower price and compensation for any damage to AWMR's equipment due to these conditions.

41. This situation also caused additional problems to AWMR, as it encountered hazardous conditions at the plant, such as excessive cement dust and floors covered with several feet of cement that AWMR had to remove in order to properly perform its work. *See Exhibit 15.*

42. The presence of asbestos in some areas, and the presence of oil in motors caused AWMR great concern, due to potential environment hazards and so informed CEMEX and Agent.

43. With respect to asbestos, AWMR declined to work on the structures in those affected areas.

44. As a result of the asbestos problem, the quantity of the metal harvested during this period slowed down.

45. CEMEX management however, at that time promised other projects to AWMR to offset these losses.

46. Several other projects for dismantling other CEMEX facilities were also mentioned to AWMR due to the professional manner in which AWMR conducted its work and cooperated with CEMEX's personnel.

47. During the entire three to four (3-4) months that AWMR worked at the site, CEMEX stated on more than one occasion that they were pleased with AWMR's performance and wanted AWMR to finish the project. *See Exhibit 15.*

48. On April 26, 2007, AWMR sent a Field Report to CEMEX's general manager, Ramiro Lozano, detailing therein the reasons why AWMR had been unable to work in certain areas of the plant, and why the removal of the materials was not being effected on a greater scale. *See Exhibits 3, 15* .

49. This was in part because certain areas of the plant were not ready to be dismantled, and had live wiring, for example, still in it.

50. Again on June 18, a report was made to CEMEX by Engineer Francine Arocho regarding the fact that the plant was not in a position to be dismantled. *See Exhibits 4, 15.*

51. Abe Shah of AWMR called for a performance and review meeting because of the problems AWMR was encountering, which was attended by Mr. Barsottelli and Mr. Lozano of CEMEX.

52. At the meeting, AWMR stated that it was encountering excessive cement and cement dust in scheduled work areas; that heavy asbestos was present in areas where AWMR was to work; and that there were "live" wires in work areas, situations which needed to be remedied since AWMR did not wish to expose its workers to potential harm.

53. The Agent, Mr. Barsottelli, asked Mr. Shah if AWMR could work in the areas where the asbestos was located, because on finding a new company and getting the permits would take some time and that he needed the money.

54. Mr. Shah informed him that he could not expose his workers to harm, and Mr. Barsottelli responded with an offensive remark against Puerto Ricans in general, stating that they would not know the difference between asbestos and insulation anyway.

55. Mr. Lozano apologized and asked if AWMR could source an asbestos abatement company, a request which AMWR's environmental engineer complied with.

56. The company came and inspected the CEMEX facilities and made a proposal to AWMR, which it passed on to Ecoterra. *See Exhibits 5, 15.*

57. This proposal was forwarded to the Agent for him to forward to CEMEX, since the Agent had requested that any proposals to CEMEX should go through him.

58. After AWMR presented the proposal to the Agent, he asked AWMR to alter the proposal and issue it under his non-profit organization's name and for more money.

59. He further requested that AMWR make another fake bid with a fictitious name for five hundred dollars ($500.00) more than what his for-profit company would bid, which AWMR refused to do.

60. The Agent, Mr. Barsottelli, informed AMWR that CEMEX was fully aware that both his companies had in the past taken even no bid contracts from CEMEX, which was the way CEMEX rewarded him personally for the services he provided to it.

61. Upon hearing about this conduct, Mr. Shah backed away from this asbestos contract because this behavior, if true, would expose CEMEX to Foreign Corporation Corruption Act.

62. Mr. Barsottelli then proceeded to hijack this contract from AWMR and had the asbestos subcontractor sign directly for his profit organization.

63. To AWMR's surprise, CEMEX approved Agent's asbestos abatement contract.

64. As a result of this, Mr. Shah told the Agent that his conduct was unethical and that to have a non-profit environmental organization as well as a for-profit environmental abatement company and providing services to, in this case, CEMEX was borderline illegal.

65. Mr. Barsottelli informed Mr. Shah that CEMEX was well aware of these activities and that he had been doing business like this for some time.

66. Mr. Barsotelli further alluded to the fact that his connections within CEMEX allowed him to obtain get checks anytime from CEMEX, and complained to AWMR about how slowly it was carrying out their dismantling contract.

67. Due to this conversation, Mr. Shah wanted no further contact or information about Mr. Barsotelli's activities with CEMEX, and forbade Mr. Barsottelli from coming to his office anymore, informing him that AWMR would deal with CEMEX directly from now on and that his checks would be mailed to him.

68. Mr. Barsottelli then started bringing his truck and parking in front of the AWMR office trailers and started retrieving small copper pieces that were laying around after being harvested – and thus owned by AWMR – and putting them in his truck.

69. He also asked AWMR Engineer José Arzon to give him 400 ft of copper cable, who refused to do so and caused Mr. Barsottelli to get very angry. *See Exhibit 15.*

70. Due to AWMR's concern regarding Barsotelli's integrity and motives, AWMR management met with Mr. Lozano without the presence of Barsotelli, and discussed the issues contained in the field report and new work plan.

71. When Mr. Barsottelli found out that AWMR management had a meeting with CEMEX Plant General Managers without him being present, Mr. Barsotelli objected to AWMR, and threatened to cancel AWMR's contract.

72. AWMR assured him that the meeting took place in order to work out the work plan and to have CEMEX carry out the environmental abatement and other safety steps so AWMR could start bringing the heavy material down.

73. Mr. Barsottelli became very agitated, again threatened AWMR, and insinuated that he had a lot of power at CEMEX because he routinely paid people off and that he had romantic involvements with several CEMEX employees.

74. Within a week of those events, on or about two (2) months ago, Ecoterra stole and/or illegally removed three (3) containers of non-ferrous metal dismantled by AWMR from the CEMEX plant, valued at an amount not less than $250,000.00.

75. Those containers were removed after working hours when AWMR's crew had left the premises of CEMEX.

76. Such containers were registered to AWMR, the goods within were processed by AWMR, and the containers were locked by AWMR's personnel as the goods were valuable.

77. The locks were cut by Agent in the presence of CEMEX personnel.

78. This act was against CEMEX's policy as well as their internal procedures, which were not followed in signing out the containers in question.

79. After seeing the Agent cut the locks, the weight station supervisor refused to sign the way bills for the Agent.

80. The Agent then went to the GM Mr. Ramiro Lozano, who circumvented CEMEX's protocol and signed the containers out, knowing full well that these were registered to AWMR .

81. The day after this incident, AWMR came to the site and found the containers missing.

82. Having discovered that Agent had taken the containers without their authorization, AWMR called the Police to report the incident.

83. CEMEX personnel, Mr. Lozano and Mr. Emmanuelli, requested that AWMR refrain from involving the Police, and that they would intervene to get AWMR's containers back.

84. After a few days of conversations, during which time CEMEX appeared to cooperate with AWMR on this problem, the following was agreed through CEMEX that:

a. AWMR would not go to the Police;

b. Agent would return the containers and the project would continue;

c. AWMR would then pay Agent as per the contract via CEMEX, as AWMR did not wish to have direct contact with Agent, specifically Mr. Barsottelli,

d. CEMEX confirmed that Mr. Barsotelli, the owner of Ecoterra (Agent) would be barred from the site for having stolen AWMR goods, and also because of certain incidents involving sexual harassment of the AWMR on-site engineer.

e. CEMEX would issue a new purchase contract with no compensation for CEMEX and only for Agent (in spite of the Agent having committed illegal acts on CEMEX's premises).

85. AWMR relied on CEMEX's promises and waited for the stolen goods to be returned. *See Exhibit 6.*

86. After a several endeavors by CEMEX personnel, the Agent returned the containers empty, having removed the goods before returning them.

87. Having failed in all reasonable courses of action, AWMR filed a Police report regarding the incident.

88. The Police then brought in the Office of Criminal Investigations and the Federal Bureau of Investigation, since the value of goods exceeded $75,000.00, and involved the stealing of an international shipping container, which is a felony and a federal offense under interstate commerce laws.

89. AWMR questioned CEMEX as to why such containers were authorized to be released to anyone other than AWMR, since the containers were registered to AWMR.

90. AWMR further requested from CEMEX the truck way bills (Bills of Lading) that contained

detailed information on the departure of the containers from the premises at CEMEX, have not been produced.

91. Mr. Emmanuelli apologized, and stated that CEMEX would issue a letter cancelling Agent's contract with CEMEX.

92. Instead, via a letter dated June 5, 2007, counsel for Agent accused AWMR of allegedly breaching the contract, and issued therein a Notice of Termination and a thirty (30) day cure period, as per the contract between the parties. *See Exhibit 7.*

93. The letter of termination for alleged non-compliance was sent *with over five (5) months of work still remaining to be performed* in the contract. *Id.*

94. The reasons given for termination were the following:

a. That AWMR was only extracting "valuable" metals from the site;

b. That payment was owed to Agent for material extracted;

c. That insurance certificates naming Agent as insured had not been issued;

d. That no destination had been provided for the metric tons of material that had been extracted so far. *Id.*

95. Besides not meeting any of the criteria stipulated in the contract as valid causes for termination, these reasons alleged by Agent for termination were unfounded.

96. For example, pursuant to their agreement, AWMR had already paid the Agent (Ecoterra) through wire transfer the monies allegedly owed in advance. *See Exhibit 8.*

97. Through this Notice of Termination, Ecoterra requested AWMR to immediately cease and desist operating in the premises, and deemed the curing period of thirty (30) days had begun. *See Exhibit 7.*

98. Ecoterra further "recommended" in its Notice of Termination that AWMR use the curing period to put itself current in the amounts allegedly owed to Agent, to remove all equipment and material from the premises, and to abandon the CEMEX premises. *Id.*

99. In the meantime, CEMEX's managers told AWMR to continue working for at least the next thirty (30) days until the cure period ended – or until July 5, 2007 – during which time CEMEX would cancel their contract with Ecoterra, and work with AWMR to finish the project.

100. By all indications, AWMR was to continue working at the premises of CEMEX as usual, and take down metal and load containers.

101. A loading dock was actually built by AWMR in Contract with CEMEX in order for the project to continue.

102. AWMR continued to work and removed sufficient non-ferrous metal for at least one container (in order to complete a delivery that was unfulfilled due to Ecoterra having previously taken the goods AWMR had extracted), and processed other metal from the structures and stockpiled them at the site.

103. At CEMEX's behest, containers were brought in for loading said material and were signed into the site by CEMEX.

104. All of a sudden, AWMR was informed that the Agent, Mr. Barsottelli, accompanied by CEMEX Personnel, was on the site and was inspecting AWMR's loading dock, the new copper container, new containers that it was loading, and new areas that it was cutting.

105. AWMR was surprised at these actions, as Mr. Barsottelli was being brought to the site after a police report has been filed, investigations were going on, and after the AWMR

engineer had informed CEMEX management of sexual harassment by Mr. Barsottelli.

106. Throughout this time, CEMEX encouraged AWMR to bring more equipment into the site and to continue to work.

107. Upon information and belief, a termination letter for Agent was drafted, but was rejected by CEMEX counsel and was not issued.

108. Instead of termination, however, a letter was issued to the Agent (Ecoterra) stating that all work was to be paralyzed at the site while the issues with AWMR were resolved. *See Exhibit 9.*

109. These actions were to the detriment of AWMR, and were taken in order that Agent would be able to cancel AWMR's contract and be able to hire a substitute to finish the job with CEMEX.

110. At this point, AWMR had been dealing hand in hand with CEMEX for four months, and would suffer irreparable harm if not allowed to provide the metal harvested to the companies with which AWMR had contracted for the purchase and sale of said metal.

111. AWMR was surprised that CEMEX management would put the interest of Ecoterra ahead itself, knowing that the cure would trigger a possible lawsuit and thereby expose the shareholders of CEMEX to extra financial liability.

112. Even though CEMEX had high praise for AWMR's work, it did nothing to help AWMR's situation, leaving the cure and subsequent termination of AWMR solely in Agent's hands.

113. AWMR was thus seeing a pattern whereby CEMEX and its officials were consistently siding with the Agent and forcing AWMR's hand in dealing with him.

114. AWMR again communicated with Mr. Emmanuelli of CEMEX to express concern regarding CEMEX's actions, which were giving free rein to a person who had stolen and who had sexually harassed AWMR employees on CEMEX's premises. *See Exhibit 15.*

115. Mr. Emmanuelli assured AWMR that was not the case, and urged AWMR to go ahead and continue loading its containers and *to continue working until the cure period terminated.*

116. Mr. Emmanuelli, however, again stated that it was the wish of the CEMEX management that AWMR Personnel to sit with the Agent and work the situation out.

117. During negotiations that took place a few days after the goods were stolen, Mr. Barsotelli again requested AWMR management to pay him $80,000 to $100,000 for the return of the goods, which AWMR refused to do.

118. Further communication between AWMR counsel and CEMEX counsel only succeeded in CEMEX insisting that AWMR needed to work the issues out with the Agent.

119. On June 26, 2007, CEMEX suddenly instructed AWMR to cease all work, and then instructed AWMR employees to leave the site.

120. Mr. Emmanuelli personally came to the AWMR office trailer, with instructions that all AWMR personnel were to be escorted off the site, and that AWMR was to leave its equipment and scrap metal loaded in AWMR's containers currently at the site.

121. AWMR was astounded to this turn of events, due to the fact that Ecoterra had committed a crime on CEMEX property against AWMR, and because a Police investigation was in progress and because CEMEX itself had insisted that AWMR work until the termination of the cure period.

122. Furthermore, AWMR was fully in the midst of the project and had already spent over $500,000 on the same.

123. At the time, CEMEX was well aware that their premises were not ready to receive AWMR when AWMR initally arrived at the site, and that AWMR had already faced losses on the project.

124. Before their personnel was evicted from the site, AWMR was not given time to secure the site, leaving its equipment was stranded, its office and files left "as is", and international shipping containers with AWMR goods, as well as processed items, on the site. *See Exhibits 10, 15.*

125. Several containers were to have departed that day and truckers showed up to pick up the goods and were forced to leave the site empty handed.

126. CEMEX's actions are causing AWMR a severe financial hardship, and illegally evicted AWMR from the premises in order to appease Ecoterra.

127. AWMR continued to call CEMEX's attention regarding AWMR's growing financial losses, but CEMEX merely insisted that AWMR should negotiate with Agent.

128. After AWMR was evicted, AWMR told CEMEX that the goods in the shipping containers now at the site should to be released along with all or some equipment for other work that AWMR would like to do in Puerto Rico in order to stem further losses. *Id.*

129. After CEMEX and Ecoterra agreed to release such containers in writing and AWMR hade made arrangements for their removal from the CEMEX site, Ecoterra suddenly withdrew its permission. *See Exhibits 11 and 12.*

130. Ecoterra subsequently terminated AWMR, and stated that AWMR could only remove the ferrous metals, which are of lesser value, and suggested that AWMR sign a waiver of any and all claims against the Agent. *See Exhibits 13 and 14.*

131. CEMEX seems to be in agreement with Ecoterra, insisting AWMR work this out with Mr. Barsottelli, the Agent, knowing full well that AWMR will not drop the criminal charges.

132. Through its actions, CEMEX has demonstrated that it is colluding with Agent to hold AWMR's goods in return for AWMR dropping the charges against Agent.

133. The activities that are the object of this complaint could not have taken place without CEMEX's cooperation.

134. Upon information and belief, Mr. Barsotelli has some personal/romantic and monetary relationships with various individuals at CEMEX and so informed AWMR. *See Exhibit 15.*

135. Furthermore, Mr. Barsotelli's non-profit and for-profit organizations are simultaneously working with CEMEX for monetary gain to CEMEX and Mr. Barsotelli, thereby suggesting an intricate web of conspiracies resulting in the sponsorship of his behavior.

136. AWMR has been robbed and has suffered tremendous losses due to the actions of Ecoterra and CEMEX.

137. AWMR demands that Defendants fully reimburse AWMR losses to date, that are deemed in the amount of no less than $1.5 Million as of July 13, 2007, and return AWMR's goods and equipment.

138. Mr. Shah of AWMR has been approached by the asbestos company that was hired to effect the removal, and was told that neither CEMEX nor the Agent had paid them in full.

139. When they asked for more money and to work order changed to a higher price, the asbestos company were told to leave the site by CEMEX Personnel.

140. AWMR saw this emerging pattern which showed that Agent could do anything on CEMEX premises with impunity with CEMEX acquiescence.

141. As a result of CEMEX's prevention of AWMR and its agents from returning to the facility, AWMR was forced to leave a large amount of scrap metal at the facility which it had already harvested in compliance with the Sales Contract and Work Plan (and approved by CEMEX) as well as the remainder of the unharvested scrap metal which AWMR was entitled to pursuant to these contracts, and whose composition it has not had the opportunity to analyze in order to determine its value.

FIRST CAUSE OF ACTION: SPECIFIC PERFORMANCE

142. The allegations contained in paragraphs 1 through 141 of this complaint are incorporated herein by reference as if again fully set forth.

143. Under the terms of Sales contract with the Agent, the agent was responsible inter-alia via his contract with CEMEX for abatement of all hazardous material including asbestos and oil.

144. According to the work plan approved and a verbal commitment by CEMEX, the area was to have prepped for harvesting and dismantling for the workers of AWMR, and was not supposed to have any to have live wires, asbestos, oil.

145. CEMEX furthermore was to give full access to AWMR workers to harvest and dismantle all the scrap in the approved work plan, which was denied via the termination letter sent

by the Agent.

146. CEMEX was also to provide according to the work plan, blueprints and drawings for the areas to be dismantled to AWMR, which was not done.

147. As a direct and proximate result of CEMEX's breach of their approved work plan and their verbal assurances and the Agent's contract, AWMR has suffered damages including but not limited to, the scrap metal AWMR harvested but which was forced to be left at the facility as well as the scrap metal that AWMR was unable to harvest due to CEMEX forcibly throwing out AWMR workers and illegal detention of their equipment and the scrap metal stolen by the Agent with the permission of CEMEX personnel

148. AWMR's losses as a result of CEMEX's/ Agent breach are unique and cannot be calculated to a sufficient degree of certainty in order to adequately compensate AWMR for the breach, making specific performance an appropriate remedy.

149. Due to the inconsistent nature of the composition and value of scrap metal, it is a unique product, making money damages impossible to calculate and inappropriate as a remedy for breach.

150. In addition, due to scarcity of scrap metal and the volatile scrap metal market, the value of an individual quantity of scrap metal is tremendously difficult to ascertain.

151. Finally, because this metal was never harvested, its is doubly difficult to calculate its value.

152. Thus, money damages are inadequate to compensate AWMR for CEMEX's breach and specific performance in allowing the contract to be fulfilled and the plant dismantled is an adequate remedy.

SECOND CAUSE OF ACTION: FRAUD

153. The allegations contained in paragraphs 1 through 152 of this complaint are incorporated herein by reference as if again fully set forth.

154. CEMEX and the Agent represented to AWMR their intention to sell all scrap metal in the Ponce Plant, and that the complete plant was to be dismantled.

155. CEMEX and Agent represented to AWMR that they were ready, willing and eager to have this dismantling process started even though they knew that they were not ready to receive AWMR workers and their sites were not prepped for demolition work.

156. Event though the contract called for purchase of the metal in "as is"condition, the plant had asbestos, live wiring and oil problems that were not the responsibility of AWMR and which CEMEX and Agent had clearly agreed they would take care of.

157. The representation that the plant was ready for dismantling was materially false because CEMEX and the Agent had intended at all relevant times to have the work done at their pace and agenda.

158. CEMEX and the Agent knew that their plans to develop the new line would interfere with their responsibilities under the Purchase Contract and approved and the agreed upon work plan and schedule, however they never disclosed these difficulties to AWMR.

159. CEMEX and Agent never disclosed their relationship entirely to AWMR. CEMEX and Agent invited AWMR to mobilize immediately and saying that the prepping of the site by CEMEX and their Agent would be taken care of immediately.

160. CEMEX and their Agent knew that these representations were false and fraudulent, and intended to induce AWMR to rely on them and coax AWMR into mobilizing and

removing the parts of the plant where they intended to do work, and also harvest the non-ferrous metals so the Agent could be given these metals as a payment without AWMR knowing it.

161. After AWMR worked on some areas and their new line as per CEMEX's agenda, CEMEX conspired with the Agent to take non-ferrous metals over $250,000.00 and stall AWMR from not filing police report until the Agent had safely disposed of the metal and financially gained from it.

162. CEMEX further conspired with the Agent by detaining AWMR's equipment and more ferrous and non-ferrous scrap metal, raising the stakes to further financially harm AWMR so it would sit down with the Agent, drop the charges and work the issues out.

163. So far AWMR has relied on CEMEX's misrepresentations to its detriment and has suffered damages as a result of CEMEX and the Agents fraudulent conduct, and seeks compensatory and consequential damages, pre-judgment and post-judgment interest, costs.

THIRD CAUSE OF ACTION:
BREACH OF CONTRACT AND COLLECTION OF MONEY

164. The allegations contained in paragraphs 1 through 163 of this complaint are incorporated herein by reference as if again fully set forth.

165. Defendant Ecoterra and AWMR executed a contract wherein AWMR would dismantle the structure and purchase remove the materials from the premises of the CEMEX plant in Ponce, Puerto Rico.

166. Ecoterra stole three containers belonging to AWMR from the CEMEX premises containing the most valuable of the harvested metal by AWMR to date, resulting in substantial damages or losses to AWMR.

167. This constituted a material breach of the contract, as all material harvested from the site belonged to AWMR.

168. Ecoterra further cancelled the contract between it and AWMR, with over five (5) months of work remaining still to be performed on the site.

169. Defendant Ecoterra has willfully breached its obligations and now owes AWMR a total amount of no less than ONE MILLION DOLLARS ($1,000,000.00) as a result of this illegal action.

FOURTH CAUSE OF ACTION:
BREACH OF CONTRACT AND DAMAGES FOR BUSINESS INTERRUPTION

170. The allegations contained in paragraphs 1 through 169 of this complaint are incorporated herein by reference as if again fully set forth.

171. Defendant Ecoterra's willful breach of its obligation with AWMR has proximately caused AWMR damages in the form business interruption, increased office overhead, and loss of income which are reasonable estimated to the sum of TWO MILLION DOLLARS ($2,000,000.00).

FIFTH CAUSE OF ACTION:
BREACH OF CONTRACT AND DAMAGES FOR LOSS OF REPUTATION

172. The allegations contained in paragraphs 1 through 172 of this complaint are incorporated herein by reference as if again fully set forth.

173. In the elite market of scrap purchasers, a seller's word and reputation are crucial, and Ecoterra's actions have caused non-compliance with AWMR;'s word and contractual agreements for the selling of the scrap metal it removed from the CEMEX site.

174. Defendant Ecoterra's willful breach of its obligation with AWMR has caused potential international buyers to cancel their purchase contacts with AWMR, and has proximately caused AWMR damages in the form loss of reputation in its business community which have caused it irreparable harm to its reputation for its non-delivery, which cannot be quantified in dollar amounts.

SIXTH CAUSE OF ACTION:
TORTIOUS INTERFERENCE WITH CONTRACT

175. The allegations contained in paragraphs 1 through 176 of this complaint are incorporated herein by reference as if again fully set forth.

176. AWMR had a contract with Agent to dismantle the structure and purchase and remove the materials from the premises of the CEMEX plant in Ponce, Puerto Rico.

177. CEMEX colluded and conspired with Agent and permitted the exit of three containers from its premises containing the most valuable of the harvested metal by AWMR to date, without authorization or consent of AWMR.

178. CEMEX, by holding more of AWMR's ferrous and other metals illegally is trying to force AWMR's hand to give in to their Agent's illegal demands.

179. CEMEX tortuously interfered with AWMR's contract with Ecoterra.

180. CEMEX took advantage from the fruits of AWMR's labor of specific performance for four months.

181. CEMEX permitted Ecoterra to take the containers out of CEMEX property, and then to force AWMR to negotiate with the Agent on the Agent's terms.

182. Such interference has caused AWMR substantial money damages and denied it the benefits of the contract's fulfillment.

RELIEF SOUGHT

183. The allegations contained in paragraphs 1 through 182 of this complaint are incorporated herein by reference as if again fully set forth.

184. Plaintiff AWMR seeks judgment against Defendants in the amount of THREE MILLION DOLLARS ($3,000,000.00), plus whatever amount the jury awards regarding the value of the irreparable harm and other damages that are unable to be quantified, plus payroll, mobilization, and advertisements to attempt to undo the irreparable harm caused to their reputation, pre-judgment accrued interest, attorney's fees, costs, and expenses approximately valued at SEVEN MILLION DOLLARS ($7,000,000.00);

185. A preliminary injunction to stop all work on the site while this matter is resolved, and to further prevent CEMEX and/or Ecoterra from adding or subtracting to any ferrous and non-ferrous metal that can change the amount that AWMR has so far dismantled and purchased;

186. Specific performance to allow AWMR back into the CEMEX site to fulfill its contractual obligations and reap the benefits of the same;

187. That AWMR personnel be allowed into the CEMEX site to remove all structures that were rendered unsafe by the forcible removal of the AWMR employees without giving them any time to secure the same;

188. That an investigation into the relationship between Ecoterra, Yo Limpio and CEMEX be commenced;

189. That CEMEX and Ecoterra personnel undergo sexual harassment training;

190. That CEMEX personnel undergo discrimination training.

TRIAL BY JURY DEMANDED

191. Plaintiff AWMR hereby demands a trial by jury.

WHEREFORE, Plaintiff AWMR demands judgment against Defendants in the amount of TEN MILLION DOLLARS ($10,000,000.00), plus whatever amount a jury awards regarding the value of the irreparable harm and other damages that are unable to be quantified, as well as costs incurred, attorney's fees, and such further relief as this Honorable Court may deem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 23rd day of July, 2007.

INDIANO & WILLIAMS, P.S.C.
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San Juan, Puerto Rico 00912
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By: [signature]
JEFFREY M. WILLIAMS
U.S.D.C.P.R. Bar No. 202414

VERIFICATION AND UNSWORN DECLARATION MADE UNDER 28 U.S.C. § 1746

I, ABUL SHAH, of legal age, authorized agent of American Waste Management and Recycling, LLC, and resident of the State of New York, hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based on my personal knowledge and personal familiarity with the documents, obligations, and contracts between Canopy Ecoterra and CEMEX.

Executed under penalty of perjury this 23rd day of July, 2007 in San Juan, Puerto Rico.

ABUL SHAH
Authorized Agent of American Waste
Management and Recycling, LLC